

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
NOVEMBER 05, 2019**

**CALL TO ORDER
5:59 PM**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 5:59 p.m. at the South Campus Building, 40 11th Street West, Suite 200, Kalispell, Montana. Board members present were Ole Netteberg, Gina Klempel, Tobias Liechti, Cal Dyck and Roger Noble. Mark Mussman and Erik Mack represented the Flathead County Planning & Zoning Office.

There were 2 members of the public in attendance.

**APPROVAL OF
MINUTES
6:00 PM**

Klempel motioned, seconded by Noble, to approve the October 01, 2019 minutes as written.

The motion passed unanimously on a roll call vote.

**PUBLIC COMMENT
(Public matters that are
within the jurisdiction of the
Board 2-3-103 M.C.A)
6:00 PM**

None

**DISCLOSURE OF
CONFLICT OF
INTERESTS
6:01 PM**

None

**JON AND KJERSTIN
CANNELL
(FCU-19-05)
6:01 PM**

A request from Jon & Kjerstin Cannell for a conditional use permit for a guesthouse at 740 Lodgepole Drive within the Little Bitterroot Lake Zoning District. The property contains approximately 16.8 acres and can legally be described as Tract 3I in Section 06, Township 27 North, Range 24 West, P.M.M., Flathead County, Montana.

**STAFF REPORT
6:02 PM**

Erik Mack reviewed the Staff Report FCU-19-05 for the board.

BOARD QUESTIONS
6:03 PM

None

**APPLICANT
PRESENTATION**
6:04 PM

Mikel Siemens with Core Water Consulting, 1075 N. Meridian Road, represented the applicants. The owners had prepared the application and then put it on hold as they were doing some test pit investigations for the property. They discovered that they would have to do a COSA for the property in order to get the second guest residence approved. The Environmental Health Department suggested they approach Planning and Zoning first to ask for approval for the permitted guest house and then proceed forward with getting a COSA for the property appropriate for both the primary and guest house residence. She discussed that Environmental Health has had representation out to the property and some adjustments had occurred for the draining field location due to bedrock. They found a suitable location and it will be a sand mound system due to the bedrock constraints. Road construction had already occurred to some parts of the property. They would like to pursue construction of the primary residence in the spring.

She requested an extension of the condition stating requirements be met within a year due to the fact that they had to work with Environmental Health, the construction of the primary residence, the sand mound system, and finally the guest house.

BOARD QUESTIONS
6:05 PM

Klempel asked if there was going to be any blasting in the bedrock.

Siemens said there had been no blasting and an excavator with a drill had been brought to the property. That part of the project had already been completed.

Noble said it did not look like there was much access and wondered what would be developed.

Siemens provided the board with a map of the alternative layout.

Noble pointed out that it was steep. He wondered where the guest house would be located and Siemen pointed out the primary residence, the well, draining field, and guest house.

Dyck asked if they were proposing one draining field for both and she replied yes.

Noble asked if the sound mound was level. Siemens was not aware of the logistics and had only done the test pits for the property in order to identify the location. They discovered that, in order to address some issues, the best approach would be for a COSA re-write. They would highlight the location of the draining field on the application.

PUBLIC COMMENT
6:09 PM

None

BOARD DISCUSSION
6:10 PM

Netteberg was ok with the application and did not have any questions.

Noble said they had heard that the site was basically bedrock and had very limited areas suitable for a septic system. He wondered if they could condition a level 2, or better, septic draining field system.

Mussman asked if that would be required from DEQ or Environmental Health. Noble said it depended on what the applicant showed on their application. Mussman asked how they would monitor compliance. Noble said it would just be conditioned so they would have to do it. Netteberg pointed out it was already conditioned that they had to abide by [the requirements of DEQ and Environmental Health]. Noble said that might mean they could go with a level 1 [system]. He said a level 1 treated nitrates to 50, level 2 treated to 24, and level 3 treated to 7.5. He was concerned about the fact that they were on bedrock above the lake and felt they should at least go to a level 2. Mussman asked if that was something that DEQ would address, being that they were close to Little Bitterroot Lake and bedrock was present. Noble said it depended on the Engineer/Consultant to make those determinations.

Dyck asked how far away the property was from the lake. They discussed that it was not that close, according to what they had before them. Noble said bedrock offered no treatment. Siemens said those decisions were typically determined by Flathead County Environmental Health and DEQ. They had not prepared the information in regards to the ground water flux or the hydraulic conductivity of the aquifer. Those were typical requirements for the approval process but it was not anticipated to be that far in the developed scope of the project at this point in time. She could not address whether a level 2 would be required based on DEQ or Environmental Health regulations. Noble said that a level 2 would help them to meet the requirements. Netteberg asked if they could be under the assumption that DEQ would say what they were going to allow. Noble said [the applicants] were going to have to show what they could do. Siemens said they would demonstrate that in their application to DEQ and Flathead County Environmental Health by the analysis of the nitrates and the phosphorus into the ground water system based upon mixing, and also potentially a surface water analysis based upon the ground water flux going through Little Bitterroot Lake. Netteberg asked if DEQ would either approve or not approve. Siemens said that was correct, the application was a pending application. Environmental Health asked that they get approval from the Board of Adjustment for a conditional use permit first.

Leitchti was not in favor of the proposed condition. He did not want to meddle in it.

Siemens said that in the 2005 approval, it was not required.

Dyck said they wanted to focus on the properties and what was underneath the boundaries of the Board of Adjustment. He did not want to get into Environmental Health's expertise. He knew that [Environmental Health] would want to make sure that it was going to work.

Siemens said she did not know, at this point and time, whether a sand mound had been disclosed to them but that was their intent based on what had been observed on their test sites. They wanted to be proactive and it was their personal intent on the project and to lead the application in that direction. The approved COSA suggested shallow bearing due to the bedrock. Their intent was to take it to the next level with the sand mound.

Dyck pointed out it would all be addressed in conditions #6 which addresses the requirement of Environmental Health approval and would have to be done prior to moving forward. What was before them was whether or not they would approve a guest house on the property. The [applicants and technicians] would have to figure out how to make it work.

Netteberg asked about an extension of condition #7. Mussman read the regulations and explained that, even if the condition were to be modified, as long as they could show that they were pursuing this application, upon request, they could be granted an extension. Netteberg clarified that extensions were an administrative process. Dyck asked how many times they could request an extension. Mussman said as long as they were showing that they were working on it in good faith, they could apply and be granted extensions.

**MAIN MOTION ON TO
ADOPT F.O.F.
(FCU-19-05)
6:20 PM**

Netteberg made a motion, seconded by Klempel, to accept Staff Report FCU-19-05 as Findings-of-Fact.

**ROLL CALL TO ADOPT
F.O.F.
(FCU-19-05)
6:20 PM**

Motion passed unanimously on a roll call vote.

**MOTION TO APPROVE
(FCU-19-05)
6:20 PM**

Netteberg made a motion, seconded by Klempel, to approve the FCU-19-05 application with conditions provided.

**ROLL CALL TO
APPROVE
(FCU-19-05)
6:21 PM**

Motion passed unanimously on a roll call vote.

**OLD BUSINESS
6:21 PM**

None

**NEW BUSINESS
6:21 PM**

Mussman discussed that they had a visit from FEMA today to see how the county was doing. Mussman reminded the board that they had jurisdiction and overheard any [floodplain] variances and appeals. He discussed the details of what that would look like and assured the board that they would be provided all the information, if and when the time came to hear a file.

**ADJOURNMENT
6:27 PM**

The meeting was adjourned at approximately 6:27 pm on a motion by Noble. The next meeting will be held at 6:00 pm on December 03, 2019.



Roger Noble, Vice-Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED 12/3/2019